

REMARKS:

In the foregoing amendments, claims 2 and 3 were amended to correct typographical errors. Claim 5 was amended to depend from claim 1. Claims 7, 8 and 15 were rewritten as independent claims including all the limitations of any base claim(s) from which they depended. Claims 1-15 remain in the application for consideration by the examiner.

Claims 1-4 and 10 were kindly allowed in the outstanding Office action. The Official action objected to claims 7-9 and 15 as containing allowable subject matter, and stated that these would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. In the foregoing amendments, claims 7, 8 and 15 were rewritten as independent claims. Amended claim 7 and 8 include all the material limitations of claim 5 from which they depended. Claim 9 depends from claim 7. Amended claim 15 includes all the material limitations of claim 6 from which it depended. For these reasons, a formal allowance of claims 7-9 in 15 is respectfully requested.

In summary, claims 1-15 are pending in the application at this time. Claims 1-4 and 10 were allowed, and objected to claims 7-9 and 15 were rewritten in condition for allowance. Therefore, claims 1-4, 7-10 and 15 are in condition for allowance. The remaining claims 5, 6 and 11-14 were rejected over prior art, which rejections will be discussed below.

Claims 5 and 6 were rejected under 35 U.S.C. §102(a) as being anticipated by U.S. patent No. 5,845,940 of Colburn. Claims 11-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Colburn in view of JP 09-328781 (JP '781). These rejections are set forth on pages 2 and 3 of the Official action.

In the foregoing amendments, claim 5 was amended so as to depend from claim 1. Claim 6 depends on claim 5. Since claim 1 was allowed, claims 5 and 6 are now in condition for allowance. For this reason, the rejection of claims 5 and 6 is now moot.

Applicant respectfully submits that the teachings of Colburn and/or JP '781 do not disclose or suggest the inventions defined in present claims 11-14 within the meaning of 35 U.S.C. §102(b) or 35 U.S.C. §103(a) for at least the following reasons.

The teachings of neither Colburn nor JP 09-328781 disclose or suggest "an extended portion extending in forward and lateral directions at left and right sides of a lower section of the counter weight and provided with a lower attachment base," as required in claim 11. The extended portions extending in forward and lateral directions at left and right sides of a lower section of the counter weight and provided with a lower attachment base are identified, for example, by reference numbers 11 and 12 in Fig. 4. The counterweight proposed by JP '781 has a shape of a half cylinder without any lower portions that extend in forward and lateral directions at left and right sides of a lower

section of the counter weight and provided with a lower attachment base, as required in present claim 11. The teachings of Colburn are similarly deficient. For such reasons, applicant respectfully submits that the teachings of JP '781 and Colburn cannot contemplate or suggest the invention set forth in present claim 11.

An important and fundamental difference between the invention defined in claim 11 and the teachings of Colburn is that the applicant's claimed invention employs ROPS (Role-Over Protective Structure) in the form of a counterweight that also provides left and right support members. In contrast thereto, the teachings of Colburn proposed the use of overhead guard beams. For such reasons, applicant respectfully submits that the device proposed by Colburn, which is not concerned with the protection of the operator when the work vehicle is overturned (i.e., ROPS), cannot contemplate or suggest the invention defined in present claim 11.

For all these reasons, applicant respectfully submits that invention defined in claim 11, and the claims which depend thereon, are not contemplated or suggested by the teachings of Colburn and JP '781. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

In addition, applicant respectfully submits that the teachings of Colburn do not contemplate or suggest the structure set forth in present claim 13, where an opening is provided in the counter weight is provided for maintenance

purposes. Therefore, applicant respectfully submits that the invention defined in claim 13 is patently distinguishable from the teachings of Colburn.

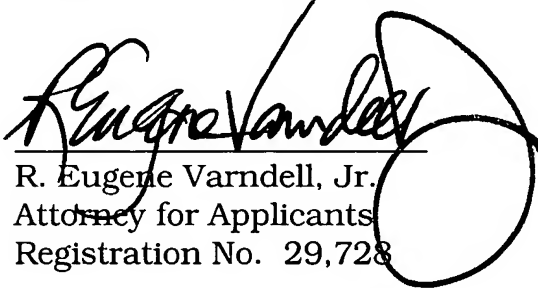
For the foregoing reasons, applicant respectfully submits that the inventions defined in present claims 11-14 are patently distinguishable from the teachings of JP '781 and Colburn. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

Based on the foregoing amendments and remarks, favorable consideration and allowance of claims 11-14, together with claims 1-10 and 15, are respectfully requested.

The foregoing is believed to be a complete and proper response to the Official action mailed March 8, 2006. While it is believed that all the claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event that this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The Commissioner is hereby authorized to charge the fee therefor, as well as any deficiency in the payment of the required fee(s) or credit any overpayment, to our deposit account No. 50-1147.

Respectfully submitted,
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